



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF

5HE-12

AUG 1 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Tony R. Lindsay
Registered Agent for
McCook Lead Supply, Inc.
16th And Cleveland Blvd.
Granite City, Illinois 62040

Re: Complaint, Findings of Violation
and Compliance Order
McCook Lead Supply Inc.
ILD 098 983 208

Dear Mr. Lindsay:

Enclosed please find a Complaint and Compliance Order which specifies this Agency's determination of certain violations by McCook Lead Supply, Inc. of the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. §6901 et seq. This Agency's determination is based on an inspection of the facility located at 7753 West 47th Street, McCook, Illinois 60525, by the Illinois Environmental Protection Agency, and other information in our files. The Findings in the Complaint state the reasons for such a determination. In essence, the facility failed to meet particular requirements of RCRA relating to interim status standards for owners and operators of hazardous waste treatment, storage and disposal facilities given at 35 Illinois Administrative Code Part 725.

Accompanying the Complaint is a Notice of Opportunity for Hearing. Should you desire to contest the Complaint, a written request for a hearing is required to be filed with Ms. Beverly Shorty, Regional Hearing Clerk (5MF-14), United States Environmental Protection Agency (U.S. EPA), 230 South Dearborn Street, Chicago, Illinois 60604, within 30 days from receipt of this Complaint. A copy of your request should also be sent to Roger Grimes, Office of Regional Counsel(5CS-16), U.S. EPA at the above address.

Regardless of whether you choose to request a hearing within the prescribed time limit following service of this Complaint, you are extended an opportunity to request an informal settlement conference.

EPA Region 5 Records Ctr.



260601

If you have any questions or desire to request an informal conference for the purpose of settlement with Waste Management Division staff, please contact Mr. Walter Francis, United States Environmental Protection Agency, Waste Management Division, RCRA Enforcement Section (5HE-12), 230 South Dearborn Street, Chicago, Illinois 60604. His phone number is (312) 353-4921.

Sincerely,

M. G. Constantelos

Basil G. Constantelos, Director
Waste Management Division

Enclosure

cc: Gary King, IEPA
Mark Haney, IEPA

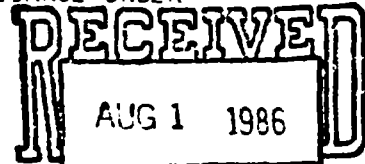
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:

MCCOOK LEAD SUPPLY, INC.
7753 WEST 47TH STREET
MCCOOK, ILLINOIS 60525

ILD 098 983 208

DOCKET NO. V-W- 86 R- 65
COMPLAINT, FINDINGS OF
VIOLATION AND COMPLIANCE ORDER



This Complaint is filed pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. § 6928(a)(1) of the United States Environmental Protection Agency's Consolidated Rules of

Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22. The Complainant is the Director, Waste Management Division, Region V, United States Environmental Protection Agency (U.S. EPA). The Respondent is McCook Lead Supply, Inc., 7753 West 47th Street, McCook, Illinois 60525.

This Complaint is based on information obtained by the U.S. EPA, including compliance inspections conducted by the Illinois Environmental Protection Agency (IEPA) on June 27 and December 18, 1985. At the time of the inspections, violations of applicable State and Federal regulations were identified.

Pursuant to 42 U.S.C. § 6928(a)(1), and based on the information cited above, it has been determined that McCook Lead Supply has violated (1) Section 3004 of RCRA, 42 U.S.C. § 6924; (2) Title V of the Illinois Environmental Protection Act, Ill. Rev. Stat., 1983, Chapter 111 1/2, Paragraph 1001 et seq., as amended, and; (3) regulations adopted by the Illinois Pollution Control Board, found at 35 Ill. Adm. Code Part 725.

JURISDICTION

Jurisdiction for this action is conferred upon U.S. EPA by Sections 2002(a)(1), 3006(b), and 3008 of RCRA, 42 U.S.C. §6912(a)(1), §6926(b), and §6928 respectively.

On May 17, 1982, the State of Illinois was granted Phase I Interim Authorization by the administrator of the U.S. EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), to administer a hazardous waste program in lieu of the Federal program. See 47 Fed. Reg. 21,043 (1982). On January 31, 1986, the State of Illinois was granted final authorization. See 51 Fed. Reg. 3778 (1986). As a result, facilities in Illinois qualifying for interim status under 40 CFR 270.70 are regulated under the Illinois provisions found at 35 Ill. Adm. Code Part 720 et seq. rather than the Federal regulations set forth at 40 CFR Part 265. Section 3008(a) of RCRA, 42 U.S.C. §6928(a), provides the U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program. As required by Section 3008(a)(2) of RCRA, 42 U.S.C. §6928(a)(2), the U.S. EPA has provided written notice of the issuance of this enforcement action to the IEPA.

FINDINGS OF VIOLATION

This determination of violation is based on the following:

1. Respondent, McCook Lead Supply, Inc., is a person defined by Section 1004(15) of RCRA, 42 U.S.C. §6903(15), and 35 Ill. Adm. Code Part 702.110, who owns and operates a facility at 7753 West 47th Street, McCook, Illinois 60525 that generates, treats and stores hazardous waste.

2. Section 3010(a) of RCRA, 42 U.S.C. §6930(a), requires any person who generates or transports hazardous waste, or owns or operates a facility for the treatment, storage, or disposal of hazardous waste, to notify U.S. EPA of such activity within 90 days of the promulgation of regulations under Section 3001 of RCRA. Section 3010 of RCRA also provides that no hazardous waste subject to regulations may be transported, treated, stored or disposed of unless the required notification has been given.

3. U.S. EPA first published regulations concerning the generation, transportation, treatment, storage, or disposal of hazardous waste on May 19, 1980. These regulations are codified at 40 CFR Parts 260 through 265. Notification to U.S. EPA of hazardous waste activity was required in most instances no later than August 18, 1980.

4. Section 3005(a) of RCRA requires U.S. EPA to publish regulations requiring each person owning or operating a hazardous waste treatment, storage, or disposal facility to obtain a RCRA permit. Such regulations were published on May 19, 1980, and are codified at 40 CFR Parts 270 and 271. The regulations require that persons who treat, store or dispose of hazardous waste submit Part A of the permit application in most instances no later than November 19, 1980.

5. Section 3005(e) of RCRA provides that an owner or operator of a facility shall be treated as having been issued a permit pending final administrative disposition on the permit application provided that: (1) the facility was in existence on November 19, 1980; (2) the requirements of Section 3010(a) of RCRA concerning notification of hazardous waste activity have been complied with; and (3) an application for a permit has been made. This statutory authority to operate is known as interim status. U.S. EPA regulations implementing these provisions are found at 40 CFR Part 270 and applicable facility standards for interim status in Illinois are found at 35 Ill. Adm. Code Part 725.

6. On August 25, 1980, Taracorp, Inc. filed a notification of hazardous waste activity for this facility with U.S. EPA pursuant to Section 3010 of RCRA. On November 18, 1980, Taracorp, Inc. filed Part A of the permit application with the U.S. EPA pursuant to Section 3005 of RCRA. The Part A described storage of hazardous waste, including emission control dust from secondary lead smelting (EPA Hazardous Waste Number K069) in a waste pile. Because the notification was not timely, Taracorp, Inc. did not obtain interim status.

7. The Respondent, McCook Lead Supply, Inc., owns and operates a facility at 7753 West 47th Street, McCook, Illinois 60525. The Respondent is an Illinois corporation whose registered agent is Tony R. Lindsay, 16th and Cleveland Blvd., Granite City, Illinois 62040. Prior to July 31, 1985, this site was owned by Taracorp, Inc. As part of a plan of reorganization under Chapter 11 of the U.S. Bankruptcy Code, McCook Lead Supply, Inc. was formed and is now the owner and operator of the McCook smelter. McCook Lead Supply, Inc. is a wholly owned subsidiary of Taracorp, Inc.

8. The Respondent's facility in McCook, Illinois has operated as a secondary lead smelter, recycling lead bearing scrap materials to produce metallic lead ingots. Subsequent to November 19, 1980, Respondent or Taracorp, Inc. stored emission control dust from secondary lead smelting (EPA Hazardous Waste No. K069) in a waste pile. Ownership and operation of such a waste pile subjected Taracorp, Inc. and Respondent to RCRA requirements, including 35 Ill. Adm. Code Part 725.
9. Although operations at the site are currently inactive (i.e., no smelting in operation), neither Taracorp, Inc. nor Respondent has submitted to IEPA a closure plan which addresses all hazardous waste management units at the facility.
10. On June 27, 1985, IEPA conducted a RCRA inspection of Respondent's facility and observed the following violations:
 - a. No waste analysis plan was available at the facility (35 Ill. Adm. Code 725.113);
 - b. Access to the active portion of the site was not restricted by providing 24 hour surveillance or a means to control entry using an artificial barrier and controlled access points (35 Ill. Adm. Code 725.114(a) or (b));
 - c. The storage area was not equipped with signs bearing the legend "Danger, Unauthorized Personnel Keep Out" (35 Ill. Adm. Code 725.114);
 - d. No records of facility inspections were available (35 Ill. Adm. Code 725.115);

- e. No inspection schedule was available (35 III. Adm. Code 725.115(b));
 - f. No records of employee job descriptions or training were available (35 III. Adm. Code 725.116(d));
 - g. The facility has not been maintained and operated to minimize the possibility of a sudden release or nonsudden release of hazardous waste constituents (lead) from the surface of the waste pile storage pad (35 III. Adm. Code 725.131);
 - h. No contingency plan was maintained at the facility (35 III. Adm. Code 725.153);
 - i. The facility operating record was not available (35 III. Adm. Code 725.173);
 - j. No annual reports were available for 1982 through 1984 (35 III. Adm. Code 725.212);
 - k. The closure plan was not available at the facility (35 III. Adm. Code 725.212);
 - l. No cost estimate for closing the facility was available (35 III. Adm. Code 725.242(a));
 - m. No evidence of financial assurance for facility closure was available (35 III. Adm. Code 725.243);
 - n. No liability coverage was available for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility (35 III. Adm. Code 725.245).
11. On October 9, 1985, IEPA sent a Compliance Inquiry Letter (CIL) to Taracorp covering violations identified during the June 27, 1985, inspection.
12. On October 24, 1985, Taracorp responded to the CIL. The response resolved some of the violations cited in the October 9, 1985, CIL.

13. On November 14, IEPA sent Taracorp a letter covering violations found during the June 27, 1985, inspection but not resolved by Taracorp's October 24, 1985, response. The following violations had not been resolved:

- a. No waste analysis plan was available at the facility (35 Ill. Adm. Code 725.113);
- b. No records of facility inspections were available (35 Ill. Adm. Code 725.115);
- c. No inspection schedule was available (35 Ill. Adm. Code 725.115(b));
- d. No records of employee job descriptions or training were available (35 Ill. Adm. Code 725.116(d));
- e. The facility has not been maintained and operated to minimize the possibility of a sudden release or nonsudden release of hazardous waste constituents (lead) from the surface of the waste pile storage pad (35 Ill. Adm. Code 725.131);
- f. No contingency plan was maintained at the facility (35 Ill. Adm. Code 725.153);
- g. The facility operating record was not available (35 Ill. Adm. Code 725.173);
- h. No cost estimate for closing the facility was available (35 Ill. Adm. Code 725.242(a));
- i. No evidence of financial assurance for facility closure was available (35 Ill. Adm. Code 725.243);
- j. No liability coverage had been obtained for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of facility (35 Ill. Adm. Code 725.245);
- k. The closure plan was not available at the facility (35 Ill. Adm. Code 725.212).

14. On December 10, 1985, U.S. EPA issued a Notice of Deficiency to Respondent stating the RCRA permit application did not contain the required demonstration of financial responsibility for closure. Respondent did not respond to this Notice of Deficiency.

15. On December 18, 1985, an IEPA inspection was conducted at Respondent's facility. This inspection, along with previous inspections conducted, revealed that possible contamination to the soil and ground-water may have occurred in the past due to runoff into the near-by drainage ditches or by migration through the cracks in the concrete pad and/or asphalt surrounding the waste management area.

16. Respondent did not certify compliance with applicable financial responsibility requirements by November 8, 1985. Therefore, pursuant to Section 3005(e)(2) of RCRA, if Respondent had obtained interim status to operate a hazardous waste pile, that interim status would have terminated on November 8, 1985.

17. 35 Ill. Adm. Code 725.212(c) requires the owner or operator of a hazardous waste management facility to submit his closure plan to IEPA within 15 days after termination of interim status. As of July 10, 1986, Respondent has not submitted a closure plan to the IEPA.

COMPLIANCE ORDER

Respondent having been initially determined to be in violation of the above cited rules and regulations, the following Compliance Order pursuant to Section 3008 of RCRA, 42 U.S.C. §6928, is entered:

- A. Respondent shall immediately upon this Order becoming final, cease all treatment, storage or disposal of any hazardous waste in the waste pile.
- B. Respondent shall within 30 days of this Order becoming final:
 - 1. Submit to IEPA, with a copy to U.S. EPA, a complete closure plan which meets the requirements of 35 Ill. Adm. Code 725, Subpart G. The closure plan must address the removal or decontamination of soil and ground water which may have been contaminated by operation of this waste pile and any other hazardous waste management units.
 - 2. Submit to IEPA, with a copy to U.S. EPA, a closure cost estimate in accordance with 35 Ill. Adm. Code 724.242(a) based on the closure plan prepared pursuant to this Order.
 - 3. Submit to IEPA evidence of financial responsibility as required by 35 Ill. Adm. Code Part 725, Subpart H.
- C. The Respondent shall implement the closure plan as approved by IEPA.
- D. Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order and any part thereof. This notification shall be submitted no later than the time stipulated above to the U.S. EPA, Region V, Waste Management Division, 230 South Dearborn Street, Chicago, Illinois 60604. Attention: Mr. Walter Francis, RCRA Enforcement Section. A copy of these documents and all

correspondence with U.S. EPA regarding this Order shall also be submitted to the Illinois Environmental Protection Agency, Attention: Mr. Gary King, IEPA, 2200 Churchill Road, Springfield, Illinois 62706.

Notwithstanding any other provision of this Order, an enforcement action may be brought pursuant to Section 7003 of RCRA or other statutory authority where the handling, storage, treatment, transportation, or disposal of solid or hazardous waste at this facility may present an imminent and substantial endangerment to human health or the environment.

PROPOSED CIVIL PENALTY

In view of the above determination and in consideration of the seriousness of the violations cited herein, the potential harm to human health and the environment, the continuing nature of the violations, and the ability of the Respondent to pay penalties, the Complainant proposes to assess a civil penalty in the amount of SIXTY-TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$62,750) against the Respondent, McCook Lead Supply, pursuant to Sections 3008(c) and 3008(g) of RCRA, 42 U.S.C. §6928. Payment shall be made by certified or cashier's check payable to the Treasurer of the United States and shall be mailed to U.S. EPA, Region V, P.O. Box 7053, Chicago, Illinois 60673. Copies of the transmittal of the payment should be sent to both the Regional Hearing Clerk, Planning and Management Division, and the Solid Waste and Emergency Response Branch Secretary, Office of Regional Counsel, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604.

Failure to comply with any requirements of the Order shall subject the above-named Respondent to liability for a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for each day of continued noncompliance with the deadlines contained in this Order. U.S. EPA is authorized to assess such penalties pursuant to RCRA Section 3008(c).

NOTICE OF OPPORTUNITY FOR HEARING

The above named Respondent has the right to request a hearing to contest any material factual allegation set forth in the Complaint and Compliance Order, or the appropriateness of any proposed compliance schedule or penalty. Unless said Respondent has requested in writing a hearing not later than thirty (30)

days from the date this Complaint is served, Respondent may be found in default of the above Complaint and Compliance Order.

To avoid a finding of default by the Regional Administrator, you must file a written answer to this Complaint with the Regional Hearing Clerk, Planning and Management Division, Chicago, Illinois 60604, within thirty (30) days of your receipt of this notice. A copy of your answer and any subsequent documents filed in this action should also be sent to Roger Grimes, Assistant Regional Counsel, at the same address. Failure to answer within thirty (30) days of receipt of this Complaint may result in a finding by the Regional Administrator that the entire amount of penalty sought in the Complaint is due and payable and subject to the interest and penalty provisions contained in the Federal Claims Collection Act of 1966, 31 U.S.C. §§63701 et seq.

Your answer should clearly and directly admit, deny, or explain each of the factual allegations of which you have knowledge. Said answer should contain: (1) a definite statement of the facts which constitute the grounds of defense, and (2) a concise statement of the facts which you intend to place at issue. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing.

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, are applicable to this administrative action. A copy of these Rules is enclosed.

SETTLEMENT CONFERENCE

Whether or not you request a hearing, you may confer informally with U.S. EPA concerning (1) whether the alleged violations in fact occurred as set forth above; (2) the appropriateness of the compliance schedule; and (3) the appropriateness of any penalty assessment in relation to the size of your business, the gravity of the violations, and the effect of the penalty on your ability to continue in business. Respondent may request an informal settlement conference at any time by contacting this office. Any such request, however, will not affect either the thirty-day time limit for responding to this Complaint or the thirty-day time limit for requesting a formal hearing on the violations alleged herein.

U.S. EPA encourages all parties to pursue the possibilities of settlement through informal conferences. A request for an informal conference should be made in writing to Walter Francis, RCRA Enforcement Section (5HE-12), at the address cited above, or by calling him at (312) 353-4921.

DATED this 31st day of July, 1986.

M. a. H. or
Basil G. Constantelos, Director
Waste Management Division
Complainant
U.S. Environmental Protection Agency
Region V

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the foregoing Complaint Order to be served upon the person(s) designated below on the date below, by causing said copies to be deposited in the U.S. Mail, First Class and certified return receipt requested, postage prepaid, at Chicago, Illinois in envelope(s) addressed to:

Tony R. Lindsay
Registered Agent for
McCook Lead Supply
16th and Cleveland Blvd.
Granite City, Illinois 62040

I have further caused the original of the Complaint and Compliance Order, and this Certificate of Service to be served in the office of the Regional Hearing Clerk located in the Planning and Management Division, U.S. EPA, Region V at 230 South Dearborn Street, Chicago, Illinois 60604, on the date below.

These are said persons' last address known to the subscriber.

Dated this 1st day of August, 1986.

John Hays, Jr.
Secretary, Hazardous Waste Enforcement Branch
U.S. EPA, Region V